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. . . . The 20th meeting of the CIA RETIREMENT BOARD
 convened at 2:00 p.m. on Tuesday, 14 September 1965, with the following
 present:

Mr. Emmett D. Echols, Chairman
 [redacted] DDP Member
 [redacted] DDP Member
 Mr. Roger G. Seely, DDI Member
 Mr. George C. Miller, DDS&T Alternate Member
 Mr. Alan M. Warfield, DDS Member
 [redacted] DDS Member
 Mr. John S. Warner, Legal Adviser
 [redacted] Finance Adviser
 [redacted] Executive Secretary
 [redacted] Recording Secretary

25X1A9A

25X1

25X1

MR. ECHOLS: Messrs. Critchfield, Borel and [redacted] are 25X1A9A
 absent today. George Miller is sitting in for [redacted] 25X1A9A

Are there any additions or corrections to the Minutes of
 the 19th meeting on 24 August, or the Minutes of the 2 September meeting?
 (No response.) If not, the Minutes are accepted as presented.

25X1A9A We have two appeal cases here today, and I am advised that
 in the case of [redacted]
 wishes to come in and present some information relevant to that case. So I
 would like to go to that one promptly, so as not to hold him up.

25X1A9A [redacted]: Take the [redacted] case first, you say? 25X1A9A
 25X1A9A Then could I just read a letter here before [redacted] comes in. This
 letter is signed by [redacted] [redacted] then read this letter to 25X1A9A
 25X1A9A the Board members.)

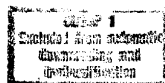
25X1A9A [redacted] joined the meeting
 at this point

25X1A9A [redacted] John, I have just read your letter

25X1A9A

DOC	1	REV DATE	3-3-82	BY	[redacted]
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of the 16th about [] I think the Board may have some questions to ask you.

25X1A9A

[] All right, sir.

MR. ECHOLS: One question, if I may, right away, while this is fresh in my mind. I didn't get your argument as to why [] would have difficulty explaining her past 16 years of acquired knowledge in the publications business to her former colleagues who are in that business if she herself tries to go back into it. Wasn't her cover employment ample excuse or explanation as to how she had kept up in the publications business?

25X1A9A

25X1

[]

MR. ECHOLS: I thought she was working out at the other end of the line.

25X1A9A

[] No. That would be a different matter -- and certainly then she could.

MR. ECHOLS: Does anybody have any specific questions before we invite [] to add anything--

25X1

MR. WARFIELD: She would be forced, in fact, to represent herself as having worked for CIA for 16 years?

25X1A9A

[] That would be the only way she could, I think, satisfactorily account for having kept up in this field of endeavor. In other words, she has kept up in it, but in order to explain that satisfactorily she would have to explain the background for having been able to keep up in it.

MR. WARFIELD: Would there be any objection to that from the standpoint of Central Cover?

25X1

[] You mean associating with Radio Liberty?

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MR. WARFIELD: No -- simply saying: For the past 16 years

I have been an employee of the CIA and my duties were concerned with publishing.

25X1A9A [] I think -- as [] said in 25X1A9A
this letter -- this would then make a complete bridge between CIA and the two
projects she has been associated with -- and that is, of course, one thing we have
been seeking to avoid -- I mean, so as to give direct evidence of the connection.

MR. WARFIELD: In other words, that would not be acceptable.

25X1A9A [] As you well know, these are two big
projects, and there have been many assertions that CIA was connected with them,
but, at the same time, we have always followed the practice of making our denial
plausible by keeping the whole thing well compartmentalized, so disclosure of the
connection she had with CIA all of this time would break down that compartmentation.

25X1A MR. GEORGE MILLER: In other words, she is associated with

Radio Liberty all right--

25X1A9A
25X1C4C [] []
25X1A8A [] []
25X1A9A
25X1C4C []

25X1A9A [] One thing that doesn't appear in the
record, has she had a cover legend all this time?

25X1A9A [] Not for all this time -- only during the overseas
time. In other words, she has been back in Headquarters for approximately
ten years.

25X1A9A [] Then does she identify herself to certain
people as CIA, and other people not as CIA?

25X1A9A [] To the best of my knowledge, only to a very
limited number of people -- mainly, people who work here in the Agency -- and

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MR. WARNER: So with an x-number of people in Liberty itself she is not associated with CIA.

25X1 [] That is right.

25X1 [] Emmett, excuse me for interrupting, but I don't know whether it strikes anybody else this way, but it strikes me that we are going to have to ask her to come in herself and ask her some questions, because, obviously, I think she is the only one that has the answer to it. Therefore, I just question the propriety of going on any further today -- whether we shouldn't just stop where we are now and ask her to appear. I submit that for your consideration.

MR. ECHOLS: I think that sounds quite reasonable. After all, the individual himself, or herself, can best describe the circumstances and any future plans -- which may enter into this if, for example, she is planning to retire or would like to retire early, and with future employment in mind then her second point becomes more binding than it is otherwise, you see.

25X1A9A [] I agree with you, Gerry, but while we have Mr. [] here I'd like to get something a little clearer. [] you are her supervisor?

25X1 [] Right.

25X1 [] It seems to me there is an appeal here on two different counts. One is the nature of her work has been such that it would be difficult for her to get good employment elsewhere. And then the stringency of the security restrictions under which she operated -- which is a little bit separate from-- Now there may be some very good arguments under the first one, but I'm trying to address myself to the second one. She is a CIA employee like most of us, and, if I understand you correctly, she had no cover story, just "I am CIA", in her normal, day to day social relationships?

25X1 [] That is right.
[] I'm not quite clear why she had to stay away from all her former friends and associates, why she couldn't say "I'm CIA", without

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getting into detail that nobody would expect her to go into. I'm not quite sure

25X1A6A of why she had to crawl into a shell. I see the situation [] -- on those trips I assume she had to operate under an assumed name -- but under the other relationships why could she not have a normal relationship?

25X1A9A [] I think this is partly as a result of her background and her majoring in international communism, Soviet affairs, and so on, and the people she would normally deal with are previous friends and acquaintances who are also Soviet experts. And if she has kept up in this field - well, how did she keep up? with whom did she work? where did she get all of her expertise in this field? how has she kept up? and so on -- which I think would lead back into the area in which she is working, as far as the knowledge that she has.

25X1A9A [] But I wonder - anymore so than anyone who works for CIA? I mean, I don't know about the rest of you, but everywhere I go people sort of assume if you work for the State Department or CIA you are an expert in foreign affairs. I just don't, on that aspect, quite understand.

25X1A9A [] I think you are getting into questions, very honestly, Harry, she ought to answer herself.

25X1A9A [] It would be difficult for me--
[] Okay.

MR. ECHOLS: If we were to accept this argumentation, though, would there not be many others in your Branch, for example, who, on equal grounds, would be equally valid cases?

25X1A9A [] I'd say at the present time not many, because I have only four others in the Branch -- I've had a series of departures. But

25X1A9A [] I would be two or three others, I believe, that would be in this same category --

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MR. SEELY: Is there any prospect of her going overseas again either on PCS or a series of TDY trips?

25X1A9A

Certainly there is as far as TDY -- but at 56 or 57 I doubt if she would have anymore PCS tours -- although it is possible.

MR. SEELY: We don't have -- or do we? -- a record of how much overseas service--

25X1A9A

Eight months and 23 days.

25X1A9A

I would just add one more thing before we close this discussion. I notice she came into OPC in 1948. This was at a time, I know very well, when individuals' cover stories were left largely to their own devices -- and frequently they have never been registered -- but strange as it may seem, by limiting their associations and really restricting the area of their social activity many of these people have been able to maintain, essentially, a cover legend even though it was fabricated by themselves and had no real backstopping at all. If this is what she did, and if she has been in fact successful -- I mean, there aren't many of these cases, but I've run across them before, where people are confident that they have preserved the secrecy of their affiliation with CIA.

25X1A9A

MR. ECHOLS: Any other questions of (No response.)

25X1A9A

Thank you very much,

25X1A9A

. . . . left the meeting at this point

MR. ECHOLS: I'd like to make just one little observation here. This dawned on me today when I was looking at this case. I for one, at least, have sort of assumed that at age 60 this problem that people might have of not being able to disclose the breadth and depth of their experience, ceases to be a problem -- in other words, I assumed and have sort of been taking it for granted that if the Agency sets 60 or 62 as the retirement age, that if a person has survived

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that long this problem ceases to exist. But I know that isn't true, when I stop to think about it, for the very reason that we are busily engaged in helping retirees find employment. We realize most people are going to have to seek supplemental employment, and this impairment thing may easily go on after age 60. This is an observation that occurred to me -- I was a little bit off in my own thinking.

25X1A9A [] This gets horribly complicated sometimes when people have used a cover story amongst their own family - their children, for instance.

25X1A9A MR. ECHOLS: Well, the consensus here is to invite [] to come to our next meeting, is that right?

25X1A9A [] I think that is the only fair thing to do, to get the full flavor of what she is driving at.

25X1A9A MR. ECHOLS: So we will table [] case in the meantime.

25X1A9A Does the same thing apply automatically to this next case - [] - or can we hear this case?

25X1A9A [] No -- to my mind the [] case is

25X1A9A really quite open and shut. I don't think she has performed qualifying service, really, by any stretch of the imagination.

MR. ECHOLS: The entire story is here in her memorandum--

25X1A9A [] Yes.

MR. ECHOLS (Continuing): --dated 12 July 1965. Shall we take a few minutes here to read it?

. . . . The Board members then read the following memorandum:

12 July 1965

MEMORANDUM FOR: Clandestine Services Career Service Board
Attn: [] Secretary

25X1A9A SUBJECT: Request for Voluntary Retirement

REFERENCE: Your Memorandum dated 23 June 1965, entitled
CIA Retirement and Disability System

1. The following additional information is submitted for your consideration in reviewing my request for voluntary retirement under the Agency's Retirement and Disability System (Public Law 88-643, dated 13 October 1964.)

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25X1A



3. I have followed the progress of the Agency's retirement bill with great personal interest, expecting to retire under its provisions when the time came for me to leave Government service, knowing I would have to leave before I would be entitled to normal Civil Service retirement. When I must return to my home in Minnesota, which will be in the very near future, all my Government experience will be of no value in seeking other employment.

4. As indicated in my memorandum of 3 June 1965, my request for voluntary retirement is based entirely on personal circumstances. My mother is reaching the age when she will no longer be able to live alone and take care of herself (she'll be 80 in September). She has no relatives and my sister has a bad cardiac condition so my mother's well being becomes my responsibility. I feel very strongly that children should not abandon their aged parents. Although my mother is otherwise in good health, she does have high blood pressure and the doctor says she should not be living alone.

5. I have tentatively computed and compared the monetary advantage of retiring under the Agency's bill with retiring under Civil Service and find the difference considerable, more so if at age 55 I must take the 5% deduction, assuming I could remain that long. Since retirement income is a fixed income and there are proposals for salary increases for Government employees over the next several years, it would, of course, be to my advantage to continue to work. Were the decision dependent on my wishes, I would, of course, choose to work for many more years. Since I will shortly have no choice in the matter, having even a fixed income is preferable to no income at all.

6. Having devoted the greater part of my Government career to the intelligence field, specifically to Soviet CE/CI, which by its very nature does not qualify me for other employment, and having met the requirements of age and years of service, I request that further consideration be given to my request for voluntary retirement.

/Signed/

25X1A9A

MR. SEELY: I think she misunderstands something here, because in her second paragraph she says, "All my service with this Agency, and much of my earlier service, appears to meet the criteria for qualifying service..." She appears to assume that non-Agency service can be considered qualifying service.

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MR. ECHOLS: Gerry, do you want to be the proponent here?

25X1A9A

[REDACTED] Yes.

Well, there is no question about it, this lady has been an effective and good employee of the Agency since OSS days. At the same time, she bases her claim to qualifying service on the basis that the duties she has performed for CIA are not marketable outside, and can't be described in enough detail to make them marketable. I don't believe it has been the consensus of this Board that this does in fact constitute qualifying service -- at least, as far as any of our decisions to date.

MR. ECHOLS: You don't know when she is planning to retire, do you?

25X1A9A

[REDACTED] No. All I know is what she says in

her letter here, that she is under pressure to return to her home.

MR. ECHOLS: I notice she has very close to 30 years' service, at which time -- well, at 55 she can exercise her option--

MR. WARFIELD: This 29.7 just be an error. I see her Federal employment began in 1937 -- and was interrupted by 6 months when she was not employed -- 1946 to 1947 -- so she would have to go to some time around 1968 for 30 years, if this statement is correct.

MR. ECHOLS: Well, from what I see here I don't see any basis for finding her eligible, but I get a sort of a feeling that I want to send a very warm, personalized rejection to her, somehow or other.

25X1A9A

[REDACTED] It's a good case, because if her service is such that she can't talk about it and isn't qualified for anything else, then it's hard to believe we're going to run into too many others who will ever qualify under that condition -- because what I think we're saying here is that she just has to go out and say, "I have worked for the Government for many years in classified duties", and try to get a job in whatever field is available to her.

MR. SEELY: In cases like this, of course, aren't there usually

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unclassified aspects that can be described? - for example, "I edited material"
or "I prepared the make-up for publications" --

25X1A9A MR. ECHOLS: It's a rare case where you can't come up with
something--

[] I agree with the decision -- I'm just sort of
reenforcing my own thinking--

MR. GEORGE MILLER: I think there are doggone few people in
the Agency who wouldn't be in the same position she is in -- so you're opening it
up to everybody--

25X1A9A [] We had a couple of weak ones -- one was ours,
where the fellow was a supply clerk, really, and IBM operator. In this case
I think we are reenforcing our position.

Gerry, just as a procedural thing, I think it's very helpful
when the CS Board sits in judgment on these things and gives its opinion -- which
means that those of you who are closest to the situation discussed this. I notice
25X1A9A this didn't happen in the [] case. Is this going to be a standard procedure?

25X1A9A [] Yes. I thought we had considered it.

25X1A9A You say we have not considered []

25X1A9A [] Well, I don't see it here. There is no recommendation
for or against.

25X1A9A [] Well, I'll just have to check up on that --
because it may be that the CS Board has not considered her case.

25X1A9A [] It would seem to me to be very helpful if the
pros, so to speak, sat on this thing and said that in their considered judgment--

25X1A9A [] If she has not appeared before the CS
Board, then before we ask her to come up here we will consider it. And
thank you very much for calling that to my attention, because that fact completely
escaped me.

MR. ECHOLS: Is the consensus on the [] case negative?

25X1A9A Any disagreement? (No response.) So be it.

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The next group of cases - three in number - are those who appear to meet the basic criteria, have 15 or more years of service, are subject to mandatory retirement, and their Career Service has stated they do not intend to request extensions beyond the dates indicated -- which are short term dates, and within the authority of the Director of Personnel to effect.

25X1A9A There is an asterisk before one name - [] What does that mean,

25X1

[]

25X1A9A [] He is not up for the 15 year review. He has less--

MR. ECHOLS: How much less?

MR. GEORGE MILLER: (14.6)

MR. ECHOLS: Then this review would be for both purposes - a review for participation and a review for permanent status, is that right? - if he's within six months--

25X1A9A [] It certainly could be, yes, sir, and perhaps should be.

MR. ECHOLS: If it's agreeable, I'd like to recommend that -- because there is no sense in looking at him again six months from now.

25X1A9A [] He is in the review cycle right now.

When is he going to retire? - 31 January?

That's less than six months. He won't hit the 15 years.

25X1A9A MR. ECHOLS: He will never hit it, then.

[] So it doesn't really matter.

25X1A9A MR. ECHOLS: Okay -- []

25X1A9 []

25X1A9A [] I move we designate them.

25X1A9A [] Support it.

. . . . This motion was then passed

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MR. ECHOLS: Group C, employees who appear to meet the basic criteria for designation and have 15 or more years of Agency service, and will be vesting designations.

MR. SEELY: A few of these are going to be rather close to benefitting from the Civil Service system more than the Agency system when retirement time comes around.

MR. ECHOLS: Because of their number of years of Federal service?

MR. SEELY: Yes.

MR. ECHOLS: They will just have to be on our watch list--

25X1A9A

[] There are three of them, and we do have our eye on them.

MR. ECHOLS: They will have to have had one year under Civil Service, should that be to their advantage, and their choice.

25X1A9A

MR. WARNER: May I ask a question about the [] case? I think we have discussed this one before, and there is no question about his contract service being included.

25X1A9A

[] There is attached to it, [] a memorandum dated 29 October 1956, which is the main thing by which we could substantiate that period of time -- because it is creditable for Civil Service retirement purposes.

25X1

MR. ECHOLS: Any further discussion?

25X1

[] Nobody is concerned about the longevity. I'd be just as happy to pass it--

25X1A9A

[] I have a couple of questions on some others--

[] May I ask on what basis [] made this certification? 25X1A9A

25X1A9A

[] I don't know, [] other than the fact that this was acceptable for Civil Service retirement purposes -- and apparently it's the only documentation that the Agency could come up with as to what he was doing during this period of time. Now I do have another memo here, signed by

25X1

25X1A9A [] dated 15 October 1956 and addressed to the Chief, Contract

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25X1A9A Personnel Division -- probably in support of this memo from [] (Mr.

25X1A9A [] then read this memorandum to the Board members.) This

25X1A9A undoubtedly was the primary factor under which [] then came out and credited that period of time for Civil Service retirement purposes -- which, for our purposes, it would be hard to say it wouldn't be accepted as creditable service under our system.

MR. WARNER: Well, I would prefer, I think, for record
25X1 purposes, that [] memo would have a little more guts to it. This is an assertion -- not based on facts -- and you are confronted with a record that shows a contract agent status which is inconsistent with the assertion. I know this is just being very technical, but I just think to protect the individual against questions--

25X1A9A [] The only other piece of evidence I could find in support of that period of service being acceptable for our system is his contract, dated 22 September 1949, paragraph 5 of which states: Employment as a staff officer after termination of this contract will be considered on the basis of the quality of work performed during the period of this contract.

MR. WARNER: Do you have the contract there?
25X1A9A [] Yes. This does not represent him as an independent contractor. So I think the whole thing seems to follow.

MR. WARNER: Yes. I'm not at all questioning the determination --
25X1A9A just think [] should have put a little more flesh on the bones, if this is going to be, in effect, the record document.

25X1A9A [] Of course, that's not []- 25X1A9A

MR. WARNER: I'm not picking on [] I'm picking on the issue. 25X1
I have no further questions.

MR. ECHOLS: Are there any other questions?
25X1A9A [] I have a couple of questions on [] 25X1A9A
Does this memo of yours mean that he is now out on leave without pay and that he intends to resign at the end of that year?

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. . . . Following is the memo referred to by [redacted]

25X1A9A

26 Aug 1965

MEMORANDUM: FOR: Chairman, CIA Retirement Board

25X1A9A

SUBJECT: Nomination of [redacted] as a Participant

1. Attached is the Nomination and Designation of Participant, Form 3100, on [redacted]. I am forwarding it to you with the cover memorandum because of the unusual aspects of the nomination. 25X1A9A

25X1A9A

25X1A9A

2. [redacted] has been with this office since 18 June 1949 and presently has adequate service for nomination. The complicating factor is that I have granted [redacted] Leave Without Pay for one year to begin 30 August. I have granted this Leave Without Pay for compassionate reasons. [redacted] during the last five years has, for the most part, been confined to a mental hospital in this area. [redacted] doctor believe that Mrs. [redacted] will improve to some extent if she is returned to her home in Boston. As of this writing she has been released from the hospital and is in the process of moving. 25X1A9A

25X1A9A

3. [redacted] has talked informally with members of the Retirement Board secretariat who have advised him concerning a possible deferred annuity at age 62 and of the fact that he will receive additional time toward retirement while serving in a Leave Without Pay status. [redacted] plans to apply for a deferred annuity if he is designated a participant in the CIA Retirement and Disability System.

/Signed/

[redacted]

Director of Communications

25X1A9A

25X1A9A

[redacted] Maybe.

25X1A9A

[redacted] I think that is the big question here.

[redacted] You see, when the time came, I was awfully tempted

to just let this one go through, but I had to sign a statement which says, "Based on his career assignment and past and prospective performance of qualifying service, this employee is recommended for [redacted] designation." Well, his prospective employment really didn't allow me to sign that statement without qualifying it, because there is a big question mark on this prospective employment. As you see, he has more than adequate qualifying service, and he has the 15 years -- but, as explained in this memo, this was one of these cases that fell under the compassionate category of leave without pay. And what he is saying -- and I couldn't begin to tell you all the problems this poor guy has had -- trouble followed

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him wherever he went -- the major one being his wife, who has a serious mental problem, and all the children have one type of a problem or another. And what he has now said is: If you will give me leave without pay, I'm going to work for an electronics-type firm up in New England, but I won't take it unless you give me this leave without pay for a year -- and if it works out and if my wife sort of does all right up there, then I'm going to quit, but if it doesn't work out then I want to be able to come back, because my expenses are just too enormous for me --

This is the whole dialogue that is going on, you see. All right, we made a command decision to put him on leave without pay and give him this opportunity. Now he is saying -- and this is where I found this thing out the other day -- he has 19.6 years of Federal service -- so he is saying, "I'll get 6 months' credit for retirement during the year of leave without pay -- and, in any event, I'll then be eligible for this program, but on a reduced annuity basis when I reach age 62" -- that is all he is reaching for here.

25X1A9A [] The thing that bothers me about it is if you mean what you say in that last sentence he plans to apply for a deferred annuity if he is designated a participant in the CIA Retirement System -- it sounds as though right from this moment he knows that he is not coming back and that he intends to apply under that - what do we call it? - discontinued service benefits section--

MR. ECHOLS: Oh no, no--

25X1A9A [] How else can he get a deferred annuity?

MR. ECHOLS: Anybody can get that when they reach age 62.

25X1 [] He intends not to come back, is the way I read this -- and if he intends not to come back, does he meet the six requirements for being designated a participant?

25X1 [] Then this isn't very clear, here in the memo, because there is a question mark on whether he will come back or not. If he was just retiring, he would resign, and that would be it. I mean, the only reason he is on leave without pay is because there is this very definite question mark as to whether he can pack it or not.

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MR. WARFIELD: I thought leave without pay created a hiatus in your service.

MR. ECHOLS: No -- and you can get six months' credit without contributions, I might add, for extended LWOP for a year.

MR. GEORGE MILLER: Does that count in your high-5?

MR. ECHOLS: No -- you earn no salary during that year. You have to be in a pay status for it to count toward the high-5.

25X1A9A

It's also six months in any one calendar year.

MR. WARNER: Six months out of a year is the maximum on the LWOP.

25X1A9A

This deferred annuity he speaks of here would apply to either system. The eligible age for any deferred annuity where there is a break in employment, as far as eligibility for any retirement, is still age 62.

25X1A9A

It's the same under either system. All he is really saying is: Since I have sort of done everything you have asked me, I'd like to be part of this system -- and if I come back, fine, and if I don't then I'll retire and take a deferred annuity.

25X1A9A

If I had read this memo in the same light as your present description of it, I don't think I would have raised the question, but it sounded to me like he knows right now he is not coming back -- he wants that extra year, at the end of which time he never intends to come back, and, if so, then I think he does not meet one or two of the criteria for designation as a participant.

MR. ECHOLS: If so, Mike, I don't think the LWOP would have been an excusable action--

25X1A9A

That is right -- and we were pretty judicious in our giving it.

25X1A9A

If he had come to you and said: I don't know, I want to stay with the Agency but this depends on my wife's health -- could you give me this LWOP? -- it may be in six months she will be all right and I'll come right back to my job--

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25X1A9A

[] For example, he said if she died he would come right back. He wants to be with the Agency. She is the problem. And he is saying: Give me a year and if I can work this out I'll quit and stay, but if anything happens to her -- which is very possible -- he would come right back here. We had explained to him, "Even if you resign, and then you want to come back, we can do that." But it took an awful lot of discussion -- as a matter of fact, if we wouldn't give him leave without pay he would have stayed on with us, and we just felt this was sort of unfair to him and that we ought to give him this chance.

So, to answer your major question, he is not leaving here with the definite intent to retire.

25X1A9A

[] Did any other member of the Board get the same feeling I did regarding [] memo?

25X1

MR. WARNER: I got a different impression from [] story 25X1 than I did from the memo. His explanation helped a great deal.

25X1A9A

[] [] could you change that memo, for the purposes of the record?

25X1A9A

[] signed it but I didn't write it. Okay. Then I think he meets the requirements for designation -- which is what we are trying to do right here - trying to designate him.

MR. WARNER: That is really the only issue. [] is just 25X1 trying to be real honest.

MR. ECHOLS: I think since this is a matter of the record, the record should be a good clean record.

Any other questions on cases in this group? Do you all agree to acceptance of the entire group?

MR. WARFIELD: I was just wondering -- [] felt that if he 25X1 really did not intend to return he probably should not have been put on leave without pay. Now let's forget about this particular case, but just in principle,

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if a man goes on leave without pay, and it was at that time justified, then whether or not he comes back doesn't seem to make any difference as far as his eligibility -- I mean, I think you could quarrel with putting the man on leave without pay who didn't intend to come back, but I think that would be more the objection than whether he is eligible under this act or not.

MR. ECHOLS: Under our regulations the granting of LWOP is only justifiable in the event of mutual intent to re-enter into active employment.

MR. SEELY: But for the actual designation, he meets the criteria now for designation--

25X1A9A [] Yes. If he had waited a few more months this would
25X1 have sailed right on through. [] is right, really -- I was sort of being overly honest, in that it was hard for me to sign this thing saying that his prospective employment will keep him in this category, when there is a little question in my mind whether there is prospective employment. But he has met it in the past.

MR. WARFIELD: I think the record ought to show that a new memorandum should be submitted to justify his being placed on leave without pay--

25X1A9A [] We justified that with the Director of Personnel--

MR. WARFIELD: Then the Act doesn't come into it--

25X1A9A [] In terms of the Board, this was the Office of Personnel with whom we discussed this in great detail and sort of had their blessing that this met the compassionate leave without pay criteria. And there is a good chance this man may come back. Okay, then if we assume the LWOP was legitimate, then there isn't very much question about the Board action. Okay. I'll rewrite the memo.

MR. ECHOLS: Just for your information, we had a case recently -
25X1A9A [] who went on LWOP for two years, and she did come back. But she had a real personal problem that demanded her presence elsewhere, and so we twice gave her a year of LWOP -- and she is back on duty.

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Okay, so much for Group C.

25X1A9A

In Group D we have one person - [] who will have 15 years of service in March, 1966. Is it the intention here that this be the one and only review, Phil?

25X1A9A

[] Right.

MR. ECHOLS: He has 102 months of qualifying service, and is currently overseas.

25X1A9A

[] What have we said? - six months leeway we give ourselves?

MR. ECHOLS: We are required within six months -- are we not, John? -- required to make that review?

MR. WARNER: That is what the regulation says -- six months before completion of 15 years' service with the Agency.

25X1A9A

[] Well, it's sort of close. I don't know whether we just defer action on this for a few meetings -- or are we meeting the regulation?

MR. WARFIELD: I'm in favor of designating him--

25X1A9A

[] I don't know what the question is on the six months. We are within the six month cycle. I don't know what the question is.

25X1A9A

[] Oh, we are? I'm sorry, I didn't realize that.

MR. ECHOLS: So the question is withdrawn.

Okay, are we all agreed to the designation of [] 25X1A9A
Okay, so be it.

In the next group, Group E, are those who appear to meet the basic criteria for designation.

25X1A9A

25X1A9A

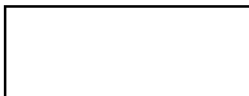
[] There is one case in here -- that of [] -- that we will have to watch quite carefully, because he will have some 39 years of service at age 60.

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MR. ECHOLS: Any discussion on any of these cases?

25X1



I move we designate them.

Second.

. This motion was then passed

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CIA RETIREMENT BOARD MEETING - 14 Sept 1965

Agenda item: Retirement Service Credit for an Annuitant under Contract -
25X1A9A []

MR. EC HOLDS: I'd [] like to turn now to the second item on
the agenda, the retirement service credit for an annuitant under contract - Mr.

25X1A9A [] This case came to my attention as the result of an inquiry made
of the General Counsel's Office, and this is from [] Chief, [] 25X1A9A
WH Support. (Reading)

26 August 1965

MEMORANDUM FOR: Office of General Counsel

SUBJECT: Retirement Service Credit for an Annuitant under Contract

25X1A9A 1. [] (GS-15) will be 65 years old on 1 January []
1966. Under the provisions of the CIA Retirement Act it will be mandatory that
he retire at that time. The WH Division desires to offer him contract employment
outside the continental U.S. with appropriate offset against contract employee
salary of his retirement annuity. Contract employment would be effective the
day following the date of retirement. At the date of retirement he will have
14 years 9 months of Government service, all with CIA, of which almost 7 years
was overseas.

2. It is requested that we be advised if he will be entitled to contribute
to the retirement fund while a contract employee and earn additional service
credit to increase his retirement annuity following termination of his contract
employee status. Due to the time element involved we would appreciate an early
reply.

/Signed/ []
Chief
WH Support

25X1A9A

25X1A9A The issue here revolves around the point that [] will be
65 years old on 1 January 1966, and, ergo, must be retired. Not only that, but he
is beyond the age of extension, so the Director cannot extend him. Although I
might hasten to point out that the legislation gives the Director the right to recall
any retired annuitant under this System, apparently without regard to age - 60, 70,
80, or 90 -- but I think in this system the intent of the law was that extensions would

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continuation of
only be granted if the services of the individual were deemed to be in the best

25X1A9A interest of the government. I think theoretically [] could be designated in the System, could be extended to age 65, could automatically be retired at 65, and could be recalled by the Director. Would you agree with that, John?

MR. WARNER: I think so -- although I'm not fully satisfied on that, Emmett. The Foreign Service say they have done it. But aside from the [] technical things, I have some other points on that issue.

MR. ECHOLS: Another point that is involved here is if this individual is retired as a staff employee on 1 January 1966 can he then be reemployed under contract and continue to participate in the System to the extent of building up credits - additional creditable years of service, or can we merely apply an offset of his annuity to his salary under the contract without any further accrual of retirement [] credits?

MR. SEELY: In that latter case, when does he retire? - does he retire again two or three years hence at the age of 67 or 68?

MR. ECHOLS: In that latter case, in my opinion he would retire under one system 1 January 1965⁶ - our System -- if he becomes a contract employee he would do so under the Civil Service Retirement System, and if he works long enough as a retired annuitant I believe he could get a supplementary Civil Service annuity - correct, John?

MR. WARNER: I don't know how you bring him under the Civil Service System--

MR. ECHOLS: I believe as a contract employee of the U. S. Government he has to be under some system, by law--

MR. WARFIELD: Is he already eligible for Social Security? You don't know that?

MR. ECHOLS: Well, then, under Social Security, but he would have to be under some retirement system.

25X1A9A [] Off hand, without quarreling with the right to hire him again as a contract employee, it almost seems like a device to circumvent the mandatory retirement, to go through this almost a facade and then bring him back into the retirement system.

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25X1A9A [] The question is not bringing him back into the CIA Retirement System at all, is it?

MR. ECHOLS: Yes, it is -- (reading) "It is requested that we be advised if he will be entitled to contribute to the retirement fund while a contract employee and earn additional service credit to increase his retirement annuity following termination of his contract employee status." Obviously, they propose, then, that he be retired under the CIA System and yet continue in our employ as a contract employee, and they want to know whether he can continue to develop credits under the CIA Retirement System.

25X1A9A [] Now this he could do under Civil Service, couldn't he? As I recall, an annuitant -- what do you call them? - a retired annuitant--

MR. WARNER: No. What you're thinking of, I believe, is that if he chose to go from Civil Service status -- under the Civil Service Retirement Act as a staff employee if he chose to go into a contract employee status for some reason, with no break in service, you could then continue him under the Civil Service Retirement System.

25X1A9A [] Well, I understand, [] Well, we have a 25X1 number of these employees who have retired--

MR. WARNER: But when you call them back it's a different situation.

25X1A9A [] The very next day we bring them back under contract -- there is no break in service -- but because they are called retired annuitants they get the difference in the salary, that is all -- plus their annuity -- but they are contributing toward additional retirement credit under Civil Service. So if they work for us under contract for three years--

MR. ECHOLS: I don't think so, [] I believe I know what you 25X1 are getting at, though. If a person retires under Civil Service and then is reemployed under some other category, if he works for a stipulated period of time, or longer, he can then go back and have his annuity recomputed and derive a larger annuity.

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[] I think this is where the retirement actually

25X1A9A

stops the payment of the annuity ceases, because the man is reemployed and he can receive the full salary of the position, subject to withholdings which go into the retirement system, and at the time he again departs employment his total annuity is recomputed on the basis of this extended employment period. He is a reemployed annuitant, really, with the annuity ceasing during this period of reemployment, as distinguished from the payment of an annuity and then the reemployment salary being minus the amount of the annuity.

25X1

[] Well, we better look at that carefully, then --

I mean in my shop -- because it is my understanding that for the first two years and 11 months, or almost three years, you have to continue to work, at which time you exhaust the amount of money that you have paid into the fund -- yet, for that period of time you don't pay into the fund on the amount of your annuity, but after that, then you pay. For instance, if a person's regular salary was \$7,000 and he was retired at \$4,000 -- he gets that annuity and we pay him the difference -- the \$3,000 under the contract under which he is working for us. For the first two years and 11 months, or three years, he does not pay into the fund on the \$4,000 annuity but he does pay on the \$3,000. After that three year period then he pays on the entire \$7,000 -- but he is able to extend or to improve his annuity when he quits the contract or when we tell him that his contract is completed subsequently. But his annuity increases. That is my understanding of it. But we are paying him now only the difference between his annuity and his former regular salary--

MR. WARNER: I am (in complete disagreement) with the
(conclusion you reached) based on the set of facts you gave--

[] Am I right in that statement?

25X1A9A

MR. WARNER: I don't think you are -- but the mere fact that
you don't seem to be right--

MR. GEORGE MILLER: They shouldn't be paying anything on that--

25X1

[] That is what I understand -- they don't -- and

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it usually takes about two years and 11 months to exhaust--

MR. WARFIELD: Why are you retiring him if you're hiring him again right away?

25X1A9A [] Well, under Civil Service our retirement age in the CS is age 62, but we have a particular project that may be for just six months -- it may terminate and will terminate of itself maybe within two years. So we want to get him back. These are experienced people in the low grades that we couldn't get to do this job. Actually it's a conversion to our electronic machines, and as long as that is in session - and it may be for the next two years - we need these people.

MR. WARFIELD: How about extending them?

25X1A9A [] The point is you don't know how long they are going to be working -- and having faced up to retirement I think our policy is to go ahead and let them retire.

25X1A9A [] I wonder if there is an element of confusion in your reference to paying on the income and this terrible word that we use sometimes - called "taxes". The annuity the man receives is tax exempt for this period of two years and 11 months, approximately, but he is paying taxes on the additional salary that he is receiving from the beginning, and then at the end of this two and a half to three year period, when he has received in total his contributions, then he pays taxes on the full annuity - the full salary. This is the only thing that I can relate that comes anywhere near the circumstances you are relating that might be implied by this payment or this contribution.

25X1A9A MR. WARNER: That might be it. I don't know.

[] But it still wouldn't bear out [] case 25X1 that a part of the man's salary is from his annuity and some of it is his contract salary--

25X1A9A [] A part of his salary is tax exempt--
[] But this wouldn't even be brought into play if he

6.

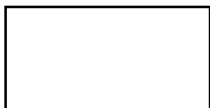
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wasn't getting his \$4,000 annuity and then in addition getting the \$3,000 as a result of the contract.

Let me ask this: Couldn't this man leave here and get employment in some other agency?

MR. ECHOLS: Yes indeed.

25X1A9A



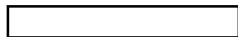
This would be offset--

It would be offset?

MR. ECHOLS: Let's look at the facts of the case. They

apparently wish to continue this man's services not necessarily in the same capacity in which he is now working. They may be motivated in part by an attempt to get him off their ceiling. Maybe they have some kind of a contractual job for him which would permit them to retain his services in a different capacity and be off the staff ceiling. The correct and normal solution to this thing under our law, I would say is this. If the man is eligible for this retirement system he should be put into it. If he is already 65 or will shortly be 65 and beyond the age of extension, the Director has the option of recalling him immediately after retirement. So in its simplest form I would say this man should be designated, he ~~should~~ should be extended simultaneously to 1 January 1966. At that time he should be retired, and if the Agency still wants him the Director should recall him. All clean, above board, and right according to the book.

25X1A9A

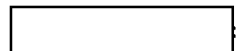


Which book, and what section of the book are you

talking about? I'd be interested--

MR. ECHOLS: The law - the statute.

25X1A9A



Well, I have your HR -- do you want to look at

25X1



25X1

MR. ECHOLS: I will read



25X1



But that talks about "in accordance with the provisions of subparagraph h(9)(b)" - which talks about disability retirement.

MR. ECHOLS: Not necessarily -- there is an "or" there. (Reading)

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"The Director may, with the consent of any retired participant, recall such participant to duty in the Agency whenever he shall determine such recall is in the public interest. Any such participant recalled to duty in the Agency or reinstated or reappointed in accordance with the provisions of subparagraph h(9)(b) shall, while so serving, be entitled in lieu of his annuity to the full salary of the grade in which he is serving. During such service, he shall make contributions to the Fund in accordance with the provisions of this regulation. When he reverts to his retired status, his annuity shall be determined anew in accordance with the provisions of this regulation."

So, if this sequence of events were to be followed, the question as to whether or not the man can continue to make contributions to the Fund and get additional service credit, would be answered "yes." It is so stipulated right here.

25X1A9A [] Look at paragraph s., though. When would you apply "s"?

MR. ECHOLS: (Reading) "s. REEMPLOYMENT OF RETIRED PARTICIPANT. (1) GENERAL. A participant retired under the System shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer."

I assume this means other agencies, completely, [] 25X1

25X1 [] Do you think this is talking about other agencies alone here?

MR. ECHOLS: Yes.

25X1A9A [] And you don't think that subparagraph h(9)(b) pertains to anything but reinstated or reappointed -- that is the part that has to do with disability only--

25X1A9A [] And you don't think it contemplates whoever is recalled will be under the mandatory retirement age?

MR. ECHOLS: This is a silent point in the statute.

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MR. WARNER: As I say, we have checked with the Foreign Service and they have assured us that they have recalled people above the final mandatory retirement age.

MR. ECHOLS: I should think there would have to be a sense of urgency for this individual's services to do that, though -- to make it plausible.

25X1A9A

[] I must admit I thought of it initially as that of a man trying to stay within the new Agency Retirement System, and that seemed wrong to me since he is past the mandatory retirement age. But if you're talking about a contract and he begins contributing into the Civil Service Retirement System, then it would seem to me that is a right he would have in some other agency so why couldn't he be given that same right here?

MR. ECHOLS: Because this was special legislation authorized to a very special agency because of its particular needs. At the same time, it seemed to me that Congress might clearly -- suppose we had a hot war situation of some kind, and we had a whole large body of retirees -- they could be 67, 70, 75 -- and in such an urgent situation the Director shouldn't be deprived, or the Government shouldn't be deprived of the know-how of these retirees, even though they had been retired mandatorily under less demanding circumstances.

25X1A9A

[] I think it would be subjecting this whole thing to jeopardy, though, to make this case one that the Director had to personally rule on -- because that makes it a truly outstanding case, and it probably isn't that outstanding. I think what we are looking for is a more orderly mechanism for coping with something like this.

25X1A9A

[] I think maybe what he ought to do is opt for the Civil Service system and continue his contributions--

MR. ECHOLS: But I might add that in terms of timing this would be quite an urgent case.

25X1A9A

[] By the time he is 65 he will have only 14 years and 9 months--

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MR. ECHOLS: He would get that 8.1% increase in annuity if he retired before 1 December.

25X1A9A [] He wouldn't retire under Civil Service--

25X1A9A [] You would ask for a waiver beyond 65?

25X1A9A [] Yes.

MR. ECHOLS: You would?

25X1A9A [] Yes.

MR. WARFIELD: I think he would be better off if he would retire under Civil Service before 1 December and then have his contract include Social Security provisions, if he's not already eligible for [] Social Security.

MR. ECHOLS: Off hand, Gerry, it seems to me this man should retire prior to 30 November 1965 -- this year -- thereby entitle himself to the 8% increase in his annuity, and then be reemployed under contract and, as you say (indicating Mr. Warfield), be under Social Security.

25X1A9A [] You would have to do the arithmetic to see what he retires at at 65 under Civil Service -- or he might be better off retiring at 65 under our program -- in other words, weighed against the three and three-quarter multiplier and the high-5.

MR. ECHOLS: We do have comparative computations here. His annuity as of January, 1966, under the CIA System would be \$5,200.00. Under the Civil Service as of January, 1966, it would be \$4,584.00 -- but that is without that (6.1%) factor -- as of 30 November there will be a difference -- as of 30 November [] it will be \$4845.00--

MR. WARFIELD: He's still better off under our System.

MR. ECHOLS: He's still better off under our System.

But this is something we're going to have to move on, Gerry, and move very fast, for Paul's benefit.

25X1A9A [] I think he needs somebody to advise him, because he's got a number of different options -- I mean, who is going to advise this man? - that is the main thing.

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MR. ECHOLS: We will certainly provide him with the computations here immediately -- these are the three options.

MR. WARNER: I was the one who brought this case to Emmett's attention, because I felt there were enough issues involved here, policywise, that the Board ought to at least look at the case and do something about it. Aside from the purely legal aspect, I would like to make a couple of comments on this. I would feel that -- and again, keeping in mind our presentation and the way the Committees looked at what we were after, etc. -- that we probably should have a very strong case to have the Director recall after age 65. After all, the law flatly says - age 60 you are automatically off the rolls, unless the Director extends -- no more than five years -- then after that there is nothing. Now there is a separate, unrelated provision saying the Director in case of need can recall. Now this wasn't designed solely to recall people beyond 65, it was designed to pick up anybody from 50 years old and up, in case of need. And therefore it seems to me that if we are going to use this power in one case that is beyond even the 65, it ought to be a very strong case. Sooner or later I expect we may be asked to review certain of our cases with these people -- they will want to see how we are administering this thing -- and it should be a very strong case to use this extraordinary power, in the face of our whole presentation about lowering the age limit because people burn out, etc., and our first real policy exception, aside from the legal aspects, is one we're trying to keep in the System after 65. So these are, I think, policy considerations.

MR. ECHOLS: I agree with you, John. I think the mere fact that no extension authority is granted the Director after 65, and even then for a GS-18 only, is certainly indicative of the intent that we would be held to, by and large, in the absence of a pressing emergency for an individual's services.

25X1A9A

.... Off the record

25X1A9A

This man is 65 years old. He would need at least five years to qualify for the Civil Service. Now whether he would meet the minimum requirement of five years under Civil Service would be a question for this particular man at this age.

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25X1

MR. ECHOLS: [] it seems to me that this individual -- if it is monetarily to his benefit, as it appears to be from these comparative computations -- should without question be designated a participant in the CIA System -- and from what I know about his record, and so on, he does qualify. I think he will have to be retired 1 January 1966, if that is when he is 65. Then there are two options, as has been pointed out. One, he could be employed under contract at whatever salary, at whatever job he is going to do, and be put under Social Security -- and I don't know what [] prior employment was, but 25X1 I believe he may have been under Social Security--

25X1A9A

[] I imagine he would get the minimum figure, whatever it is -- \$50 or \$60 a month.

MR. ECHOLS: And alternatively, he could be recalled by the Director and kept under this system.

Would not the best course of action be for us to give you these comparative computations and for you to discuss this with him?

25X1A9A

25X1A9A

[] Well, I didn't raise the question, [] did, and what he asked is in that memorandum -- "It is requested that we be advised if he will be entitled to contribute to the retirement fund"--

MR. ECHOLS: The answer would be no, unless (a) he is retired, and (b) the Director recalls him.

MR. WARFIELD: And I think he also ought to be advised of the Board's feeling about the use of the Director's recall authority, whatever the feeling of the Board is.

25X1A9A

[] I know what my feeling is in regard to the Director's recall authority. If a man can perform useful service and we can take advantage of his knowledge and training as a full-time employee, in a competitive way, I don't see any reason why the Director shouldn't recall him.

MR. ECHOLS: He could, of course, but it seems to me that is contrary to the expressed Agency policy even with regard to the Civil Service Retirement System.

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MR. WARFIELD: I think there is a difference between the Director recalling him, and offering him a contract. I have no quarrel with offering him a contract, but I think to recall him under this System would be--

MR. ECHOLS: Now this memorandum that John Warner referred to me -- the memo from [] -- and I think because of the urgency of this problem, with the Civil Service legislation being what it is -- this memo still remains to be answered. A legal question has been addressed to the General Counsel's Office, and they still have to respond to him. So that is one course of action - get a response back.

From my point of view, I think we ought to address a memo back to you (indicating []) on this individual's case, pointing out the urgency of his decision as to retirement under Civil Service versus the Agency's system; also, that he be advised and that the DD/P be advised that come 1 January if this man is under our System he is automatically retired. I don't even know if this man is in this country -- is he?

25X1A9A [] Yes, he is in this country now.

25X1A9A [] I still think there is one other course of action which needs to be spelled out, and the only reason I can't address myself to it is I don't know enough about WH's desire -- I don't know if it is a full-time job or something he would be doing in a full-time capacity worth something to the Agency. If it is a full-time job then I still think bringing him into the system, requesting a waiver and keeping him two more years under Civil Service, also has merit.

25X1A9A [] I think it is a full-time job. I haven't examined the contract.

25X1A9A [] I think the consideration is to work two more years as a GS-18 -- for two more years -- request a waiver to work until 67 -- is a possible course of action.

25X1A9A []: If the Panel decides that in his case it would be better for him to stay under Civil Service because we do need him down in

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let's say one of the Islands, and that even though he is 65, we will ignore that for the time being, then it's up to the Career Service -- they don't have to ask him to retire--

25X1A9A [] They have expressed an intent here to put him under contract, and I don't know what the contract is--

25X1A9A [] That may be because they thought this was the way out of this situation. But if the Board doesn't feel it has to act on this man's case and just left it alone, then this man is still under Civil Service as long as we don't designate him, and the DD/P may then decide for himself that he wants him on that Island. If he hasn't been designated as a participant in the System he is still under Civil Service and he can stay on. They don't have to go to the Director in that case.

MR. WARNER: That is absolutely right, [] -- but I ~~tried~~ 25X1 to get it out on the table here because I think the question is really a lot broader than this specific case -- it brings a lot of questions into play in which I thought the entire Board would be interested.

25X1A9A [] It's a good case. I'm just wondering if we said in this case that there is a job for this man that the DDP wants done in that area, and to designate him at this time would be the wrong thing to do because then he would have to retire at 65, unless the Director himself took steps to recall him, and that the DDP would like not to ~~designate~~ designate. Would that be something this Board would want to consider?

MR. ECHOLS: That is not the Board's problem. But I do think that this individual must be consulted in this matter, not just ignored. Actually, there is no action before this Board at the moment. He has not been nominated by the DDP--

25X1A9A [] Oh, I'm sorry, I didn't understand -- he has not been designated a participant?

25X1A9A [] No.

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MR. ECHOLS: As I see it, the action is with the DDP. The timing is critically important, obviously. But I don't see anything for the Board to do at this time.

MR. SEELY: But clarify one point for me. Regardless of this particular case - the circumstances in this case, is it possible for an employee to be retired under the System at 65 and recalled and reinstated as a participant in the system, thereby in effect becoming a member of this retirement system after he is past 65?

MR. WARNER: This appears to be so, yes -- as a technical matter it appears to be so. I'm not fully satisfied on this, and I want to do some more checking. I was trying to go beyond that point, [] by indicating -- 25X1 let's assume for the moment it is possible -- and I do think it is -- I had raised another more serious question in my mind, and that is the impact of this type of case -- whether it's this particular case or any other case -- in terms of is this sufficiently important to warrant what is really a rather exceptional move, that's all.

MR. SEELY: ... (inaudible)... appropriate case for the Agency retirement system.

MR. WARNER: Because if the Board unanimously felt this way, that is pretty good guidance as to how DDP would be thinking about other ways of achieving their objective. If the objective was utilizing [] there is no 25X1 problem there -- there are half a dozen ways of utilizing [] -- it's just a 25X1 question of which particular method.

25X1A9A [] Let me ask one more question -- and I think that was a good question Roger had. Then is it all right, then, if the head of a Career Service, such as in this case, determines that if he were to designate this person at this time he would have to be separated, and that he himself takes steps not to designate - not to have him nominated for designation - because he wants to keep him in another job, or put him in another area, let's say, to do a

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job for a particular length of time? Is that all right by this Board? or does this Board have anything to say about it? or does this Board just consider those cases that come before it?

MR. WARNER: Well, the individual, in effect, has a right to appeal his failure to be nominated. I don't think the Board needs necessarily to dip down into checking cases where no one has raised a question, just because we happen to know about the case.

25X1A9A [] By March of 1966 when he will have 15 years, could he elect not to be a part of this system for this very reason? We have had other people say, "I don't want to be part of the system because I want to work beyond that mandatory age."

25X1A9A [] We may have other cases--

25X1A9A [] But if they are not designated how does this Board ever take cognizance of them?

MR. WARNER: It doesn't, unless there is an appeal.

MR. WARFIELD: I thought everybody had to be given an opportunity, if they're qualified, to participate.

MR. WARNER: That is what I'm saying -- if he appeals non-designation, the Board has the case, in effect.

MR. SEELY: He has to be notified of his non-designation, does he not?

MR. ECHOLS: I believe I am responsible for examining the records of all employees--

25X1 [] And you sort of said to us, "Designate or red line" -- and those who are not redlined are those who, for one reason or another, are not qualified." But he is sort of in between -- he doesn't fall in the latter category.

MR. SEELY: I suggest this case could be handled by notifying him that he is not being made a participant, and apprising him of his right to

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appeal but at the same time giving him the arithmetic on how he would stand if he were to get into this system versus the Civil Service System, and he can make his decision on whether to appeal or not on that basis.

MR. ECHOLS: I really think that for those people who are clearly within the field of employment for which this retirement system was set up any decision to extend beyond the compulsory retirement age or any decision to recall should be made by the Director on the recommendation of the Deputy Director concerned. With all integrity, I don't see how it can be any other way -- and it should be that way.

25X1A9A [] I don't agree. This man is a member of the Civil Service System and came here with that as a condition of employment. Why can't he stay that way if he wants to?

MR. ECHOLS: The Director went forward to Congress and he and his representatives justified this system for certain elements of service. The Director himself had espoused an early retirement program or early retirement system for any employee in the Agency, and the exception to this rule I think should be approved by him -- and especially where it is provided for specifically in the law. I think he, and he alone, has these authorities.

25X1A9A [] Well, this particular man, except (he lacks three months) (for an action in three months) could say, "Pooh! I elect the Civil Service System." So why--

25X1 [] He wouldn't have that chance, because he would have to be out before he had that election.

25X1A9A []: Then do you want to penalize him because he lacks three months of reaching his 15 years--

MR. ECHOLS: Under the Civil Service System it would require the Deputy Director to extend this man--

25X1A9A []: That is right, the requirement is the Deputy Director, not the Director -- in other words, the DDP can extend him.

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MR. ECHOLS: He can indeed, as long as this man is under the Civil Service Retirement System, but being under that system is a penalty to this individual, at least if he has plans to retire in the near future.

25X1A9A

[REDACTED]

Eck, I'd like to say one more thing. I realize you have thrown this in here because it has so many considerations -- but we have gone way beyond what has been asked here. The statement has been made here that this fellow is going to retire like they have discussed with him, and after he retires they are going to offer him a contract, and all they're really saying is: under this contract can he contribute to the retirement system. Right? Now I think the answer to that, from what I have gathered here so far, is no, we don't think that as a contract employee after he is retired he could contribute to the Agency retirement system. He might be able to get Social Security -- or you name it -- even Civil Service -- but, as you point out, he would have a long way to go. Now, you know more of the background here, but to me it says he is going to retire.

MR. ECHOLS: I think General Counsel's Office is going to rule the man cannot retire under this system and continue to build up credits in this system--

[REDACTED]

25X1A9A

[REDACTED]

That may satisfy this inquiry -- "No, as a contract employee you have to get Social Security or something."

MR. WARNER: Again, I don't have blinders on -- I'm trying to meet the objective, which is to have the services of this guy. There are a lot more of those considerations than there are legal ones.

25X1A9A

[REDACTED]

I am trying to do one more thing than that and that is to keep him in as favorable a position as he can be kept in, in terms of his retirement.

MR. WARNER: Of course. That is perfectly natural.

MR. ECHOLS: Well, shall we leave this case now, and go on.

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CIA RETIREMENT BOARD MTG
14 September 1965

25X1A9A Agenda item: Discussion of the [] case.

MR. WARNER: I have only five more minutes -- I have an appointment with Senator Fulbright, and I must go.

MR. ECHOLS: Then let me give you a piece of paper you can carry with you -- because I had a brainstorm on this case. [] as you know, has for all practical purposes retired from the Agency. He has applied for retirement under both Civil Service and the Agency System, whichever he can get in. He has also filed an appeal to the Director -- I have his appeal here to the Director requesting that he be placed under the CIA retirement system. Of course, the Board informally, I think, received from our legal adviser an opinion that this man could not become a participant in the CIA System. This individual came in and talked to me asking how he should file his appeal, how it should be addressed, and I pointed out to him that he had not formally been denied participation in the System and that I thought I would bring it up at the next Board meeting, so that if he is formally denied, I shall so notify him, so that his appeal then would have a solid basis. In the meantime I have come up with some views on this case which may or may not have legal validity.

You all have copies of his appeal. Are there any questions or discussion on the appeal or its basis?

25X1A9A [] No, but it makes me think of this other one --

25X1A9A if what the [] legal adviser has said about [] is true,

25X1A9A then if they stalled on [] until 1 January he wouldn't be eligible to get into this retirement system, because he would then be in the same--

MR. WARNER: His situation has to be similar, there is no question about that.

25X1A9A [] --because he would be beyond the mandatory

25X1A9A retirement age -- which is the position you have taken on []

MR. ECHOLS: Well, if I may I'd like to read to you some views

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25X1A9A that I have, which may follow a different train of thought than that of []
 or the General Counsel's Office -- and these may or may not be valid at all. Let
 me read this.

"1. In its deliberations concerning the implementation of the CIA Retirement System the Board was faced with cases of employees who were already eligible for voluntary retirement under the Civil Service Retirement System. The policy question was whether, since these employees had already had 'full' careers and had successfully survived the stresses and health hazards of intelligence operations, they should be eligible for the greater benefits of the CIA Retirement System? While acknowledging that the CIA system in its ultimate objective is both a manpower control tool and a special benefit plan for the employee who cannot or does not choose to survive a full working career, the Board felt that the qualifying employee earns his benefits even though he does have a full career. On this premise numerous employees already past mandatory retirement age have been brought into the CIA system only to be retired shortly thereafter.

25X1A9A "2. The case of [] is identical in principle excepting for the fact that he is of an age (67) which at his grade is beyond that to which the DCI is authorized by the statute to extend the services of an employee under the CIA Retirement System. It appears to be a legal anomaly therefore to designate an employee as a participant in a retirement system which in its basic legislation precludes the continuation of the individual's services to his then present age.

25X1A9A "3. Despite this seeming legal obstacle it should be noted that the statute gives the Director the authority to recall a retired annuitant 'whenever he shall determine such recall to be in the public interest.' It is clear, then, that the DCI would have the authority to recall [] had he already been retired under the CIA Retirement System, at age 67, 70 or 75, for that matter.

"4. Without delving into the probabilities of legal technicality or of Comptroller General interpretation of statute, it would seem possible that the Director could designate an otherwise qualified employee as a participant in the CIA Retirement System, making him immediately subject to mandatory retirement and simultaneously recall him to active duty.

25X1A9A "5. An alternative solution to a technical legal impediment to the equitable implementation of the new CIA Retirement System would be for the Director to simultaneously promote [] to GS-18 and thereby raise his mandatory retirement age to 65, simultaneously extend his services to the then current date and simultaneously retire him. This seems a technically and legally feasible action but of course is not desirable from both appearances sake and because windfall benefits would accrue in connection with possible leave accrual payments.

25X1A9A "6. In summary, I recommend that the DCI agree to the designation of [] as a participant in the CIA Retirement System and to his retirement on 30 September 1965."

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Now, I'm somewhat concerned about the apparent inequity, if you will, and disparity of treatment between this man at 67 and a couple of other people we have had who were [REDACTED] 62 or 63, only because this one man is beyond the mandatory extended retirement age. I think there are only two such cases in the Agency. There might be three or four -- I only know of two. If we could treat these people alike, if there is any way of doing it without violating the law, I would think it would be desirable that we do it. 25X1A9A

[REDACTED] Isn't this a fair statement of the Board's feeling? -- because I feel the same way, that short of a legal hurdle which we can't jump, the Board would be for including them in the new system.

MR. ECHOLS: I don't know whether I have come up with a reasonably plausible gimmick to avoid an out and out legal-- 25X1A9A

[REDACTED] I think there is a little weakness there in the mandatory retirement -- one was a Civil Service one which we went beyond -- which is an Agency-imposed mandatory retirement age -- and the other one is a statutory mandatory retirement. I guess there is a difference. But it seems like with only two people involved, and being caught up in this system--

MR. WARNER: Let me address myself to it, because I do have to go--

MR. ECHOLS: I'd rather not even invite an opinion from you, John, publicly, here. If the Board agrees that I should further this case, if we can find some loophole, I'd really like, with your permission, to proceed to try--

MR. SEELY: I'd like to say something. This man has had the benefit of a full salary from age 60 to age 67, and I wouldn't feel, if he is not retired under our System, that he had been denied anything, that he has lost anything. He has had something the average participant in the System has not had, and that is a full salary for seven years. I feel personally that bringing people at this age into the System which is basically designed to insure everybody under grade 18 does retire at 60, is inconsistent with the spirit and intent -- and I don't agree with his paragraph 8, where he says, "I am convinced that it was not the intent of those

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who formulated the Agency retirement system to deprive anyone who had already reached 60 of the right of retirement when the system came into being."

MR. ECHOLS: Oh, I disagree with several of his statements. I'm not debating that--

MR. SEELY: This isn't the case of a man who obviously has met all the qualifications for the system and is being deprived of the benefits of it. It seems to me this is the case of a man who has gotten more benefits, in a sense, than the average person who retires under the system -- and those benefits consist of seven years at full salary. Therefore I am not sure in my mind that I feel that he should be retired under the Agency System.

MR. ECHOLS: On this point, I would only say this. 25X1
Certainly this man has had seven more years of salary from the Agency than you and I are going to get, let's say -- but the circumstances under which this Agency was staffed, and the manpower hunt that was undertaken to find people of competence to do the job, and the fact that we picked this man, who happened to be a good deal older than the others, yet he has nonetheless done the job that we wanted done, and has done, as far as I know, a very effective job, and has earned his pay over these years -- in fact, they had him in the field on a TDY only a month or so ago -- so the fact he has been on a salary beyond the age that you and I will be on salary, I don't think militates against his case, really.

25X1 25X1A9A how would you feel about this case.
The man is 64 years old, for (the next) ~~██████████~~ 364 days. Now that man, according to the way we have been handling the cases under 65, we would designate him, knowing the Director of Personnel has to grant that extension -- and we are doing that as a favor for that individual, because under the law he is supposed to retire at 60 if he is a GS-17 or below -- so we've gone ahead in that case and said -- Well, the Director of Personnel will extend him that one more day -- and we designate him -- he can retire at percent -- but if he is exactly 65 years old, under the law we can't do that. Now do you want to penalize that guy for that one day?

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MR. SEELY: I don't want to penalize anybody for one day. But

here is a man who is 67 -- he's two years beyond the final age--

25X1A9A [] I think we have to be fairly consistent, though,
in the 65 and a half, 66, 67 -- if we're going to take one position we ought to stick
to it if he is over 65 -- or if we want to say, then, look for some justification here--

25X1A9A [] How would Congress feel if they learned that people
were being retired under this System at advanced ages, such as the late 60's,
when their understanding or intent was that this would be a system for keeping the
Agency youthful - retiring people at early ages.

MR. ECHOLS: I think Congress is quite used to the fact that
implementing any new piece of legislation involving dollars and cents or rights,
somebody is going to get their throat cut by a matter of minutes, or days, or hours,
and that somebody else is going to get a little windfall that perhaps he wasn't
completely deserving of, etc. Lord only knows how they worked us over to avoid
windfalls to people - the five year requirements, ten year requirements. They are
very alert to windfalls, there is no doubt about this -- and I think this is true with
almost any piece of legislation. I think we should avoid, to the extent possible,
odious situations, odious comparisons, where by reason of a couple of days, or a
couple of months, or couple of years, one person does and another doesn't. And
to the extent that this man for a minimum of 60 months did presumably earn these
benefits, since that is our minimum standard I think we ought to go along, if we can.

25X1A9A []: I agree, too -- but furthermore, I think
it was the announced policy of the Board that in applying the legislation initially
we would do it as liberally as we possibly could--

25X1A9A MR. ECHOLS: That is true.

25X1A9A [] And I feel that if we can get []
a more liberal retirement, we should.

25X1A9A [] It seems to me on this first go around there is
some justification for that type of argument, on the first go around.

25X1A9A MR. ECHOLS: There are just two of these [] in the Agency--

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[REDACTED]

Are you sure of that? - you can count them

on your one hand?

MR. ECHOLS: Of course, all of the cases aren't in yet -- we can't be positive of that -- but have all of the 65ers been taken care of?

25X1

25X1A9A

[REDACTED]

Hopefully.

MR. SEELY: How old is the other one?

[REDACTED]

It seems to me the fact we bring them in and

immediately retire them doesn't strike me as something that would offend Congress as much as a recall of someone after he is past 65. At least we're putting him right out, and we're just bringing him into this better System before we pitch him out. I almost feel that had it been thought of it could have been worked into the bill, to get this thing started, that those who have already exceeded the mandatory age will be included. It's just one of these things -- you don't think of every angle.

MR. ECHOLS: Does anybody else want a copy of my gimmick paper?

25X1A9A

(Mr. Echols then handed [REDACTED] a copy of this paper.) And if any of you have any ideas on how to improve it -- this is a difficult problem. This man is employed now -- although (not on the salary) he had before -- so I don't think his annuity is a pressing problem -- although he has applied for retirement as of 30 September. So I'll work with the Office of General Counsel and see if they think this thing - if they could say "no legal objections" -- in which case the recommendation of the Board is that we will try to pursue this case, and get it adopted. Are you willing to go along with that, Roger?

. . . . Mr. Seely slightly nodded his head in the affirmative

MR. WARFIELD: Well, I'm not -- but we've had a divided vote before.

MR. ECHOLS: Well, let me get the legal opinion first, and I'll bring it up at the next meeting.

MR. WARFIELD: If there is a change in legal opinion, I would go along with it--

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MR. ECHOLS: I'm not going to recommend anything to the Director that the General Counsel's Office will say is illegal.

MR. SEELY: If this opinion of is superseded by a 25X1A9A different opinion, I wouldn't object--

MR. ECHOLS: Well, we will table this, then.

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MR. WARFIELD: There was one more thing, and that was the Employee Notice, you said you would take up with the Board today.

MR. ECHOLS: This is an awfully complicated subject, but maybe I can make it short.

The President has on his desk a piece of legislation which will give increased annuities to the tune of 8.1 percent to persons who retire under the Civil Service Retirement System prior to 1 December.

. . . . [] left the meeting at this point

MR. ECHOLS (Continuing): The 8.1% consists of two things, a hangover of 2% from the old Salary Reform Act, and a 6.1% bonus, if you will, representing cost of living increases, etc. - and salary increases - that have taken place between the Salary Reform Act and the present day. It is assumed the President is going to sign this bill. In addition, the bill revises the time scale for effecting cost-of-living increases in annuities in future years, so as to minimize the time lag between compilation of the cost-of-living increases and the implementation of the increases in annuities, and requires a shorter period of time -- three months, as opposed to a year -- of average higher increased cost of living.

Now, we have employees right now, some of whom have been extended for six months, five months, four months, some of whom are planning their retirement in the imminent future - maybe this month, maybe next month, maybe three months from now, and so on. CIA has drafted legislation and has it already approved - the Director has signed off on it, which would give our retirement system the equivalent of this new provision of the Civil Service Retirement System. Our committees have told us there isn't a chance in hell of their taking up this legislation or of it getting on the floor in this session of Congress. We can hope, of course, that in February, March or April of next year that this legislation for our system will go through -- and there is no reason to think that Congress would not accept it, because they have already

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approved this for the Armed Services and for Civil Service. In case our legislation goes through, it will have a different effective date, of course, than the Civil Service. It won't be 1 December, it will be sometime next spring. They will probably give us 60 days in which to get out the word and let people make up their minds whether they want to retire immediately or later on.

Now our employees right this moment are mostly under Civil Service. Some of them are at the bring of a decision: "Do I stay under the Civil Service System or go under the CIA system? If I go under the CIA system I may be mandatorily retired beginning 1 January, or 1 February, etc. " These people may say, "I'd like to gamble -- I'd like to be put in the CIA system and gamble that this CIA legislation will be passed next spring, and then I'll be indeed much better off."

Now, somebody will have to communicate with them and explain this is the situation, these are the problems. It takes a sharp pencil to calculate the dollars and cents differences between retirement under Civil Service -- retirement under Civil Service with this 8.1% increment -- and the only way to do this, I think, is to sit down with each and every individual who may be retiring within let's say the next two years, sit down and explain the facts of life to them.

MR. WARFIELD: Emmett, couldn't you limit it further. It only affects those people who could retire under the Civil Service by 1 December -- so that would be 55 and 30, or 60 and whatever the guidelines are.

MR. ECHOLS: So this is a relatively small group of people. This is not thousands of people, by any means. But it's probably a couple hundred people. So I propose to do two things. One, I think we can identify these people from the rolls, and start getting in touch with them. But at the same time I think we ought to publish an Agency-wide notice -- this couldn't possibly answer all of the questions of these people, but only to alert them to the situation and get in touch with us if they are contemplating retirement within the next couple of years, and if they are age so and so, and have so many years' service -- otherwise

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don't bother us.

MR. GEORGE MILLER: Let me ask you a question. I have one specific case -- this man, I know, is 59, and he is going to retire early next year. Now if he is going to retire next year he would get less than if he retired this year--

MR. ECHOLS: It wouldn't be 8% -- the 2% he gets this calendar year drops to 1% next year; and, in addition, this special 6.1% expires -- it's only for persons who have retired prior to 1 December.

MR. GEORGE MILLER: But can he retire--

25X1A9A

Has he been designated?

MR. WARFIELD: Does he have 30 years of service?

MR. GEORGE MILLER: I don't know.

MR. ECHOLS: But offsetting this, George, is the fact that due to pay legislation in recent years one's high-5 is going up rapidly, generally speaking, which will offset, a great deal, this 8% increase.

MR. GEORGE MILLER: There seems to be a lot of inequity there, because we definitely want to make him retire early next spring.

MR. ECHOLS: Well, if he has the right to retire now he probably should run, not walk, to the nearest exit.

MR. GEORGE MILLER: Can he retire and get the 1% -- let's say 1% -- if he is one year under age 60?

MR. ECHOLS: You're talking about your under age penalty? Does he have 30 years' service?

MR. GEORGE MILLER: I don't know.

MR. ECHOLS: It's the facts in every case that have a vital bearing on this.

MR. SEELY: I have a participant in the system who had chosen, although it was not yet formalized, to voluntarily retire on the 30th of November -- he is qualified and (above 55). He has now elected to voluntarily retire on

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the 31st of November. Both would be under the Agency system. Now he is all right?

MR. ECHOLS: He has no problem, and I'll tell you why -- because assuming the President is going to sign this bill then we have every reason to think that our equivalent bill will go through early next year, and it will be for those people who have retired previous to the effective date of that bill.

MR. SEELY: There is no chance it will have the same date as the Civil Service?

MR. ECHOLS: No.

MR. GEORGE MILLER: I have another one who is overseas, and he has 32 or 33 years at the present time and should retire in the summer of 1967. Now this would be to his benefit--

MR. ECHOLS: I don't know, because, among other things, of what value are the two years of salary to him in terms of high-5 and current income -- what other employment opportunities does he have in mind? who knows? The individual has to make his choice, if he has a choice.

MR. WARFIELD: And he has to make a guess--

MR. ECHOLS: And he has to make an educated guess, and take a gamble.

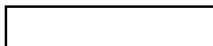
MR. GEORGE MILLER: And does this legislation give you retirement at 55 with 30 years of service--

MR. ECHOLS: All we're trying to do is get the same cost of living adjustment--

MR. GEORGE MILLER: 55 and 30 years of service--

MR. ECHOLS: You mean 30 years of service without regard to age--

25X1A9A



It would be with reduced annuity.

MR. ECHOLS: Well, we will try to pull together a Notice

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that will make some sense.

. The meeting adjourned at 4:15 p.m.

25X1A9A



We were negotiating with Treasury for our first investment of CIA Retirement System funds, and the total now is in excess of one million dollars of available funds. We will be negotiating on our second investment very shortly. \$450,000.00 is going in the first time.

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